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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte C. DOUGLASS THOMAS

Appeal 2010-011521
Application 09/655,273
Technology Center 2100

Before MAHSHID D. SAADAT, KAYLAN K. DESHPANDE, and
MICHAEL J. STRAUSS, *Administrative Patent Judges*.

STRAUSS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellant appeals under 35 U.S.C. § 134(a) from the final rejection of claims 6-12, 16, 19-20, and 22-38. We have jurisdiction under 35 U.S.C. § 6(b). We *reverse*.

Introduction

The invention is directed to a computer-implemented method and stored program for automatically monitoring a copyright registration to determine whether the registration needs to be updated. App. Br. 1. In particular, the invention includes comparing a website page against an earlier stored version of the website that had been previously subject to copyright registration to produce a change indication. A determination is then made, based on the change indication, whether a copyright registration update is needed. *See generally* independent claim 37.

Exemplary Claim

Exemplary claim 1 under appeal reads as follows:

19. A computer-implemented method for determining whether a copyright registration update is needed, said method comprising:

 comparing page defining information of at least a portion of a website against page defining information of a corresponding portion of an earlier stored version of the website that was previously subject to a copyright registration with the U.S. Copyright Office to produce a change indication;

 determining that the copyright registration update is needed for the website based on the change indication;

 producing copyright registration application information when it is determined that the copyright registration update is needed for the website; and

 storing the copyright registration application information,

wherein the page defining information pertains to attributes of the at least a portion of the website, the attributes including at least two or more of: date, size, word count, links, frame layout, tables, colors, number of inputs, and number or types of buttons.

References

Freivald	US 5,898,836	Apr. 27, 1999
Glogau	US 5,983,351	Nov. 9, 1999

Information Today: “Library of Congress and Copyright Office Sign Agreement with UMI”, *Information Today*, vol. 16, issue, 3, page 3 (March 1999).

Examiner’s Rejection

Claims 1-5, 13-15, 17-18, and 21 are canceled. Claims 6-12, 16, 19-20 and 22-38 are pending and stand rejected. Appellant seeks review of the following rejections: Claims 6-11, 16, 19-20, 22-24, 27-31, and 34-38 under 35 U.S.C. §103(a) as being obvious over the combination of Freivald and Glogau, and claims 12, 25, 26, 32, and 33 under 35 U.S.C. §103(a) as being obvious over the combination of Freivald, Glogau, and Information Today.

ISSUE

Based upon our review of the record and Appellant’s contentions, we have determined that the following issue is dispositive in this appeal:

Did the Examiner err in concluding that the combination of the cited references discloses the limitation, “determining that the copyright

registration update is needed for the website based on the change indication,” as recited in independent claims 19, 24, and 37?¹

ANALYSIS

Claims 6-11, 16, 19-20, 22-24, 27-31, and 34-38

We agree with Appellant’s argument that the cited references, singularly and in combination, fail to disclose or suggest the claimed step of “determining that the copyright registration update is needed for the website based on the change indication[,]” as recited by independent claim 19 and similarly recited by independent claims 24 and 37. *See* App. Br. 8-10, 15-18 and 26-29. The Examiner asserts that “[t]he [c]ombination of Freivald in view of Glogau discloses the comparing descriptive information of web sites to determine whether a copyright registration update is needed,” citing to Freivald at col. 6, ll. 20-31. Ans. 8. The cited part of Freivald describes that users may be interested in changes made to a retrieved file, that the Freivald inventors have developed software to retrieve files and compare versions using checksums, and of notifying a user by e-mail of changes. However we find that the cited portion of Freivald is silent concerning changes indicating that a copyright registration update is needed. Likewise, while describing an automated copyright application system for generating an initial copyright registration application, Glogau is silent concerning checking previously copyright registered materials for changes indicating a need to update [a previously filed] copyright registration.

The Examiner responds that Appellant’s argument is an attack on the reference separately. *See* Ans. 7. However, since cited references fail to

¹ We note that Appellant’s arguments present additional issues; however, we do not reach the additional issues as this issue is dispositive of the Appeal.

teach or suggest the updating functionality required by the claims, we are not persuaded by this argument. As such, we do not sustain the rejection of independent claims 19, 24, and 37 and dependent claims 6-11, 16, 20, 22-23, 27-31, 34-36, and 38.

Claims 12, 25, 26, 32 and 33

Claims 12, 25, 26, 32, and 33 incorporate by reference the limitation “determining that the copyright registration update is needed for the website based on the change indication[,]” which we found that the combination of Freivald and Glogau fails to teach or suggest *supra*. Information Today fails to cure this deficiency. As such, we do not sustain the Examiner’s rejection of claims 12, 25, 26, 32, and 33.

CONCLUSION

Appellant has persuaded us of error in the Examiner’s determination that the cited references suggest the step of “determining that the copyright registration update is needed for the website based on the change indication,” as recited by independent claims 19, 24, and 37. Accordingly, we will not sustain the Examiner’s rejection of those claims or of claims 6-12, 16, 20, 22-23, 25-36, or 38 dependent therefrom.

DECISION

The decision of the Examiner to reject claims 6-12, 16, 19-20, and 22-38 is reversed.

REVERSED

Appeal 2010- 011521
Application 09/655,273

ELD